

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 21, 2021

SEAN F. McAVOY, CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

DUSTY S.¹,

Plaintiff,

vs.

KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY,²

Defendant.

No. 4:20-cv-05165-MKD

**ORDER GRANTING
STIPULATED MOTION FOR
REMAND PURSUANT TO
SENTENCE FOUR OF 42 U.S.C. §
405(g)**

ECF Nos. 19, 24

Before the Court is the parties' Stipulated Motion for Remand, ECF No. 24,
requesting remand of the above-captioned matter to the Commissioner for

¹ To protect the privacy of plaintiffs in social security cases, the undersigned
identifies them by only their first names and the initial of their last names. *See*
LCivR 5.2(c).

² Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9,
2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo
Kijakazi is substituted for Andrew M. Saul as the defendant in this suit. No further
action need be taken to continue this suit. *See* 42 U.S.C. § 405(g).

1 additional administrative proceeding pursuant to sentence four of 42 U.S.C. §
2 405(g). Attorney David Lybbert represents Plaintiff. Attorney Lisa Goldoftas
3 represents Defendant. The parties have consented to proceed before a magistrate
4 judge. ECF No. 6.

5 After consideration, **IT IS HEREBY ORDERED** that:

- 6 1. The parties' Stipulated Motion for Remand, **ECF No. 24**, is **GRANTED**.
7 2. The above-captioned case be **REVERSED** and **REMANDED** to the
8 Commissioner of Social Security for further administrative proceeding pursuant to
9 sentence four of 42 U.S.C. § 405(g).

10 The parties have stipulated to the following:

11 On remand, the Appeals Council will instruct the ALJ to:

- 12 • Offer Plaintiff the opportunity for a new hearing;
13 • Evaluate the medical opinions and prior administrative medical
14 findings, including the opinions of Kenneth Cole, Psy.D., and Billie J.
15 Kortge, M.A., consistent with 20 C.F.R. §§ 416.913 and 416.920c;
16 • Obtain a consultative psychological evaluation, as warranted;
17 • Reassess Plaintiff's residual functional capacity and subjective
18 allegations;
19 • Evaluate the lay witness testimony;
20

- 1 • Continue with the sequential evaluation process, obtaining vocational
- 2 expert testimony as warranted; and
- 3 • Take further action to complete the administrative record, resolve the
- 4 above issues, and issue a new decision.

5 *See* ECF No. 24 at 2.

6 3. Judgment shall be entered for **PLAINTIFF**.

7 4. Plaintiff's Motion for Summary Judgment, **ECF No. 19**, is **STRICKEN**
8 **AS MOOT**.

9 5. Upon proper presentation, this Court consider Plaintiff's application for
10 fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

11 The District Court Executive is directed to enter this Order, **enter**
12 **Judgment**, forward copies to counsel, and **CLOSE THE FILE**.

13 DATED July 21, 2021.

14 s/Mary K. Dimke
15 MARY K. DIMKE
UNITED STATES MAGISTRATE JUDGE